

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

115-9-15693

IN THE MATTER OF:

**HECTOR L MALDONADO CANDELARIA**

Debtor

CASE NO. **12-07559 ESL**

CHAPTER 13

**MOTION TO QUASH CRAM DOWN**

TO THE HONORABLE COURT:

Comes now as **BANCO BILBAO VIZCAYA ARGENTARIA PUERTO RICO ("BBVA")**, represented by the undersigned attorneys, and brings this motion under Bankruptcy Rule 7004(h), 9014, **without having submitted itself to the jurisdiction of the Court**, and respectfully states and prays as follows:

1. On **September 26<sup>th</sup>, 2012**, debtor filed the instant petition for relief.
2. Debtor filed an amended plan dated November 7<sup>th</sup>, 2012, by means of which he proposes to cram down BBVA's secured outstanding balance owed.
3. BBVA hereby respectfully requests from this Honorable Court to enter an Order quashing debtor's cram down to its secured outstanding balance owed based on the following grounds:
4. Rule 7001 (2) of the Federal Rules of Bankruptcy Procedure ("FRBP") requires the filing of an adversary proceeding when it is intended to determine "[...] the validity, priority, or

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**extent** of a lien or other interest in property, other than a proceeding under Rule 4003(d)".

5. Debtor filed the aforementioned plan but has failed to file an adversary proceeding against BBVA and to serve BBVA as required by law. A cram down of BBVA's security interest is an adversary proceeding inasmuch it intends to determine the validity and/or **extent** of BBVA's lien over its collateral. See Rule 7001(2) of FRBP. Therefore, debtor is required to file an adversary proceeding and to serve summons pursuant to Rule 7004 (b)(3) and (h).

6. Pursuant to Local Bankruptcy Rule 9031-1 (h)(1) and(2)(H), it is respectfully requested from this Honorable Court that, should debtor fail to file a response to the instant motion within thirty (30) days notice of the same an Order may be entered quashing debtor's plan without the need of a hearing.

**WHEREFORE**, it is respectfully requested from this Honorable Court to enter an Order quashing debtor's proposed plan to the extend it proposes a cram down over BBVA's security interest.

**I HEREBY CERTIFY:** On this same date I have electronically filed the foregoing document with the clerk of the Court using the

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CM/ECF System which will sent notification of such filing to the following: Attorney for Debtor(s), **ROBERTO FIGUEROA CARRASQUILLO, ESQ.**, and to Chapter 13 Trustee, **ALEJANDRO OLIVERAS RIVERA, ESQ.**, and by ordinary mail to debtor(s) and to all creditors and parties in interest appearing in the attached Master Address List.

**RESPECTFULLY SUBMITTED,**

In San Juan, Puerto Rico, this 28 day of November, 2012.

s/ Angel M. Vázquez Bauzá  
**ANGEL M. VÁZQUEZ BAUZÁ, ESQ.**  
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0104-3  
Case 12-07559-ESL13  
District of Puerto Rico  
Old San Juan  
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The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

(d) INTERNAL REVENUE SERVICE  
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